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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,274	09/22/2003	Ryuichi Kimata	030988	5465
38834	7590	12/16/2004	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036			VASUDEVA, AJAY	
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,274

Applicant(s)

KIMATA ET AL.

Examiner

Ajay Vasudeva

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 15 is/are rejected.
- 7) ☒ Claim(s) 6, 8-14 and 16-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 7 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamazaki (US 4,587,935 A).

Yamazaki shows an outboard motor [11] having a propulsion unit and an internal combustion engine for driving the propulsion unit (figure 1), and a cover [12] for covering the internal combustion engine. The spark plugs [15] are considered equivalent to the controller for controlling the internal combustion engine.

Applicant may note that the limitation “radio communication apparatus” has been broadly interpreted to mean such a device that generates a signal -- such as electromagnetic waves -- and then employs a wireless medium to transmit the signal. Further, the limitation “antenna of the radio communication apparatus” has been broadly interpreted to mean such a device that is capable of transmitting or sensing any type of signal propagating in a wireless medium.

Consequently, the wire [17] is considered both a radio communication apparatus as well as an antenna because it generates a signal, and transmits the signal in a wireless medium. The sensor [23] fixed on the cover surface is also considered an antenna of the radio communication apparatus because it senses the signal generated by the wire.

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Alternatively, as seen in the second embodiment of figure 4, the flywheel magneto [44] is considered both a radio communication apparatus as well as an antenna because it generates a signal, and transmits the signal in a wireless medium. The sensor [45] fixed on the cover surface is also considered an antenna of the radio communication apparatus because it senses the signal generated by the wire.

The tachometer [26, 48] constitutes an operational condition detecting device.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki.

Yamazaki shows an outboard motor with a cover, as above.

However, Yamazaki is silent on the cover being made of resin.

The Examiner takes Official Notice that use of resin material, such as fiberglass reinforced resin, to make cover for an outboard motor is well known in the art. It would have been obvious for one skilled in the art at the time of the invention to have molded the cover of Yamazaki with resin because such cover would have been strong and light in weight.

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5. Claim 1, 3-5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holt (US 6,431,930 B1) in view of CA 2,357,699 A1.

Holt shows an outboard motor [12] having a propulsion unit and an internal combustion engine for driving the propulsion unit (figure 2), and a cover [14] for covering the internal combustion engine. An ECU [34] is provided within the cover as a controller for controlling the internal combustion engine. Holt teaches a wireless transmission of control signal to the ECU in the form of a radio transmission (column 4, lines 1-2).

However, Holt is silent on the structure of the transmitting or sensing mechanism for enabling a radio transmission.

CA ('699) shows a controller for an outboard motor employing a radio transmission structure, wherein a receiving antenna is mounted on the cover of the outboard motor.

It would have been obvious for one skilled in the art at the time of the invention to mount a receiving antenna on the cover of Holt, as taught by CA ('699). It should be noted that the receiver antenna would additionally have to employ a circuitry to forward a sensed signal to ECU that is disposed within the cover. Applicant may note that in its most basic and simple structure, the receiver antenna on the cover would be connected to the ECU via an electrical wire. The receiver antenna, together with the circuitry that establishes a connection with the ECU, constitutes the radio communication apparatus. Therefore, at least a part of the radio communication apparatus (in the form of electrical wire or any other connection establishing means) would be disposed within the cover.

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Further, it would also have been obvious for one skilled in the art at the time of the invention to have molded the cover of Holt with resin for the reasons described above in item #4 of this Office Action.

Allowable Subject Matter

6. Claims 6, 8-14, and 16-21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Response to Arguments

7. Applicant's arguments with respect to claim 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. This is a Non-Final rejection

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (703) 306-5992. The examiner can normally be reached on Monday-Friday 1:00 pm--5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



AV

Ajay Vasudeva
Examiner
Art Unit 3617



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